



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ERP, FFT

### Introduction

The Tenants seek the following relief under the *Residential Tenancy Act* (the “Act”)

- an order pursuant to s. 33 for emergency repairs; and
- return of the filing fee pursuant to s. 72.

R.D. and P.D. appeared as the Tenants. M.N. appeared as the Landlord’s agent.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

### Landlord’s Prior Application

A note on this file indicates that there is another file related to this matter, with that file number being listed on the cover page of this decision. At the outset of the hearing, I confirmed with the Tenants and the Landlord’s agent whether there was, indeed, another file as listed. Both confirmed that it had.

Review of the other matter indicates that the Landlord had filed and received an order of possession after serving a 10-Day Notice to End Tenancy on the Tenants. The order of possession was granted on January 13, 2023. The Tenants also filed for review consideration of the previous decision, which was dismissed by way of decision dated January 17, 2023.

At the hearing, the Tenants explained the circumstances, which appear to largely be a repetition of their submissions made on their review application. The issue is that I am

not in a position to overturn either the original decision of January 13, 2023 or the review consideration decision of January 17, 2023. The overall effect of both decisions is clear: the tenancy is over after the Tenant's failed to dispute the 10-Day Notice or pay the arrears within the time permitted.

As the tenancy is over, I dismiss this application as the issues raised in it are now moot. The Tenant R.D. advised that the Tenants would be filing for judicial review. Such is their right and I make no comment on the this. In light of this submission, however, I dismiss the application under s. 33 of the *Act* with leave to reapply should the Tenants be successful on judicial review. If they are unsuccessful, the claim under s. 33 of the *Act* will be dismissed without leave to reapply as the tenancy would be over. Regardless of the outcome of the judicial review, if one is in fact filed, I dismiss the Tenants claim under s. 72 of the *Act* for return of the filing fee without leave to reapply as the Tenants cannot be said to have been successful on this application.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 24, 2023

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Residential Tenancy Branch